



"Dana L. Dreinhofer"
<DLD@uwyo.edu>
05/17/2004 02:50 PM

To: <ed_feeley@blm.gov>
cc:
Subject: STOP OVERGRAZING AND PROTECT SMITHSFORK'S
WILDERNESS RESOURCES

**SMITHSFORK ALLOTMENT NEEDS SUPPORT TO STOP OVERGRAZING AND PROTECT
WILDERNESS RESOURCES.**

Ms. Mary Jo Rugwell, Field Manager
BLM Kemmerer Field Office
312 Highway 189 North
Kemmerer, Wyoming 83101-9711

Dear Ms. Rugwell:

Please accept these comments on the Smithsfork Draft Allotment Mangement Plan (AMP).

The AMP continues the 30 percent reduction in livestock numbers implemented in 2001 and makes provision for additional reductions if needed. It is imperative that these reductions be maintained and provided for in the AMP. The history of the Smithsfork Allotment shows it has been grazed in excess of carrying capacity since the original adjudication in 1966; unless the allotment is grazed at carrying capacity sensitive riparian resources will continue to be degraded regardless of any other livestock management efforts.

The closure of Raymond Canyon to livestock grazing must be maintained. BLM's has repeatedly documented the importance of this watershed to the Bonneville cutthroat trout as well as the severe overgrazing occurring in this watershed. BLM should prohibit trailing of livestock through this canyon. Rather, livestock should be required to trucked into other portions of the allotment they are authorized to graze. In the past BLM has documented that "trailing" of livestock has not occurred, rather animals were found to remain in the canyon for extended periods, leading to severe overgrazing.

The draft AMP calls for riders to ensure cattle are moved as planned and that they be herded as needed to keep them in authorized pastures. Yet the number of riders needed to accomplish this is not specified. The final AMP should specify the number of riders that will be required to ensure the requirements of the AMP are met. In addition, the final AMP should ensure that BLM has sufficient personnel to monitor compliance with the AMP by making provision for a BLM intern or temporary employee to monitor compliance.

Increased fencing, water developments, and water pipelines should not receive emphasis in the final AMP. These developments have too many negative consequences for wildlife (movements are hindered, direct mortality can occur to sage grouse, and livestock become concentrated in previously secure wildlife habitat). To the extent these activities are pursued, the final AMP should make clear they will only be constructed if there is full compliance with the National Environmental Policy Act, and that the cumulative impacts of these related developments will be considered together, not separately.

Thank you for considering these comments.

Sincerely,

Dana Lynn Dreinhofer
1118 South 11th ST.
Laramie, WY 82070



Chuck and Kate Neal
<ckrneal@180com.net
>
05/18/2004 10:23 AM

To: <ed_feeley@blm.gov>
cc:
Subject: STOP OVERGRAZING AND PROTECT ITS WILDERNESS
RESOURCES

Subject: STOP OVERGRAZING AND PROTECT ITS WILDERNESS RESOURCES

Ms. Mary Jo Rugwell, Field Manager
BLM Kemmerer Field Office
312 Highway 189 North
Kemmerer, Wyoming 83101-9711

Dear Ms. Rugwell:

Please accept these comments on the Smithsfork Draft Allotment Mangement Plan (AMP).

The AMP continues the 30 percent reduction in livestock numbers implemented in 2001 and makes provision for additional reductions if needed. It is imperative that these reductions be maintained and provided for in the AMP. The history of the Smithsfork Allotment shows it has been grazed in excess of carrying capacity since the original adjudication in 1966; unless the allotment is grazed at carrying capacity sensitive riparian resources will continue to be degraded regardless of any other livestock management efforts.

The closure of Raymond Canyon to livestock grazing must be maintained. BLM's has repeatedly documented the importance of this watershed to the Bonneville cutthroat trout as well as the severe overgrazing occurring in this watershed. BLM should prohibit trailing of livestock through this canyon. Rather, livestock should be required to trucked into other portions of the allotment they are authorized to graze. In the past BLM has documented that "trailing" of livestock has not occurred, rather animals were found to remain in the canyon for extended periods, leading to severe overgrazing.

The draft AMP calls for riders to ensure cattle are moved as planned and that they be herded as needed to keep them in authorized pastures. Yet the number of riders needed to accomplish this is not specified. The final AMP should specify the number of riders that will be required to ensure the requirements of the AMP are met. In addition, the final AMP should ensure that BLM has sufficient personnel to monitor compliance with the AMP by making provision for a BLM intern or temporary employee to monitor compliance.

Increased fencing, water developments, and water pipelines should not receive emphasis in the final AMP. These developments have too many negative consequences for wildlife (movements are hindered, direct mortality can occur to sage grouse, and livestock become concentrated in previously secure wildlife habitat). To the extent these activities are pursued, the final AMP should make clear they will only be constructed if there is full compliance with the National Environmental Policy Act, and that the cumulative impacts of these related developments will be considered together, not separately.

Thank you for considering these comments.

Sincerely,

Chuck Neal
1526 Alger Ave.
Cody, WY 82414



"Dan Blair"
<danjanbee@wyoming
.com>

05/18/2004 01:17 PM

To: "BLM" <ed_feeley@blm.gov>
cc:
Subject: Comments on Smithsfork Draft Allotment Management Plan (AMP)

MEMO TO: Ms. Mary Jo Rugwell, Field Manager
BLM Kemmerer Field Office
312 Highway 189 North
Kemmerer, Wyoming 83101-9711

FROM: Dan and Janet W. Blair
P.O. Box 1640
4514 Hwy. 26
Dubois, WY 82513
phone: (307) 455-4000
email: danjanbee@wyoming.com

DATE: May 18, 2004

RE: Smithsfork Draft Allotment Management Plan - Comments

Dear Ms. Rugwell:

Thank you for this opportunity to comment on the Smithsfork Draft Allotment Management Plan (AMP). Our concerns are itemized below.

1. Livestock Grazing Reductions

The Smithsfork Allotment has a history of grazing in excess of carrying capacity since the original adjudication in 1966. Unless the allotment is grazed at carrying capacity, and no more, sensitive riparian resources will continue to be degraded, no matter what BLM does with regard to other livestock management efforts. Thus, we are pleased to see that the AMP continues the 30-percent reduction in livestock numbers implemented in 2001, and that it makes provision for additional reductions if needed. It is absolutely imperative that these reductions be maintained and provided for in the AMP.

2. Closure of Raymond Canyon

The closure of Raymond Canyon to livestock grazing must be maintained. BLM has repeatedly documented both the importance of this watershed to the Bonneville cutthroat trout, and the severe overgrazing occurring in this watershed. This overgrazing has occurred because, as the BLM has also documented, the required "trailing" of livestock through Raymond Canyon has not occurred in the past -- instead, animals were found to remain in the canyon for extended periods. BLM should prohibit "trailing" of livestock through Raymond Canyon, instead requiring that livestock be trucked into other, authorized portions of the allotment.

3. Numbers of Personnel Needed

The draft AMP calls for riders to ensure cattle are moved as planned and herded as needed to keep them in authorized pastures, but the number of riders needed to accomplish

this is not specified. In the past, we know that cattle continually trespassed from the authorized pasture into "closed" pastures that were to be "resting," virtually assuring continued degradation. As drafted, that situation is unlikely to change. The final AMP must clearly specify the number of riders required to ensure planned movements of livestock and their successful containment to authorized pastures.

Furthermore, the inability to monitor compliance will mean the AMP is, in effect, "toothless." Thus, in addition to requiring a specific number of riders, the final AMP should ensure that BLM stays on top of this by making provision for a BLM intern or temporary employee whose sole job it is to monitor compliance with the AMP.

4. Negative Consequences to Wildlife in the Draft AMP

We are concerned about the increased fencing, water developments, and water pipelines addressed in the draft AMP. These should not receive emphasis in the final AMP. There are simply too many negative consequences for wildlife: (a) the normal movements of big game animals are impeded; (b) fencing causes direct mortality to sage grouse; and (c) water developments encourage livestock to become concentrated in previously secure wildlife habitat.

To the extent increased fencing, water developments, and water pipelines are pursued, the final AMP should make clear they will only be constructed if there is full compliance with the National Environmental Policy Act, and that the cumulative impacts of these related developments will be considered together, not separately.

Thank you for giving our comments your serious and thoughtful consideration.

Sincerely,

Dan & Jan Blair

RECEIVED
BLM KEMMERER F.O.
2004 MAY 24 AM 8:39

May 21, 2004

Ms. Mary Jo Rugwell, Field Manager
BLM Kemmerer Field Office
312 Highway 189 North
Kemmerer, Wyoming 83101-9711

Dear Ms. Rugwell:

Please accept these comments on the Smithsfork Draft Allotment Mangement Plan (AMP).

The allotment management plan continues the 30 percent reduction in livestock numbers implemented in 2001 and makes provision for additional reductions if needed. It is imperative that these reductions be maintained and provided for in the allotment management plan (AMP). The history of the Smithsfork Allotment shows it has been grazed in excess of carrying capacity since the original adjudication in 1966; unless the allotment is grazed at carrying capacity, sensitive riparian resources will continue to be degraded regardless of any other livestock management efforts.

The closure of Raymond Canyon to livestock grazing must be maintained. BLM has repeatedly documented the importance of this watershed to the Bonneville cutthroat trout as well as the severe overgrazing occurring in this watershed. BLM should prohibit trailing of livestock through this canyon. Rather, livestock should be required to be trucked into the other portions of the allotment they are authorized to graze. In the past BLM has documented that "trailing" of livestock has not occurred, rather animals were found to remain in the canyon for extended periods, leading to severe overgrazing.

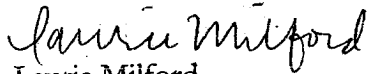
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MAY 21, 2004

Increased fencing, water developments, and ~~water pipelines~~ should not receive emphasis in the final AMP. These developments have too many negative consequences for wildlife (movements are hindered, direct mortality can occur to sage grouse, and livestock become concentrated in previously secure wildlife habitat). To the extent these activities are pursued, the final AMP should make clear they will only be constructed if there is full compliance with the National Environmental Policy Act, and that the cumulative impacts of these related developments will be considered together, not separately.

Thank you for considering these comments.

Sincerely,


Laurie Milford
President


Jeff Rickerl
Vice President

Melanie Arnett
1300 E. Garfield
Laramie, WY 82070
307.742.0988
arnett@lamar.colostate.edu

Ms. Mary Jo Rugwell, Field Manager
BLM Kemmerer Field Office
312 Highway 189 North
Kemmerer, Wyoming 83101-9711

Dear Ms. Rugwell:

Please accept these comments on the Smithsfork Draft Allotment Management Plan (AMP).

☐ The AMP continues the 30 percent reduction in livestock numbers implemented in 2001 and makes provision for additional reductions if needed. It is imperative that these reductions be maintained and provided for in the AMP. The history of the Smithsfork Allotment shows it has been grazed in excess of carrying capacity since the original adjudication in 1966; unless the allotment is grazed at carrying capacity sensitive riparian resources will continue to be degraded regardless of any other livestock management efforts.

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Thank you for considering these comments.

Sincerely,



Melanie Arnett

RECEIVED
BLM KEMMERER F.O.
2004 MAY 20 AM 8:48

Ms. Mary Jo Rugwell, Field Manager
BLM Kemmerer Field Office
312 Highway 189 North
Kemmerer, Wyoming 83101-9711

Dear Ms. Rugwell:

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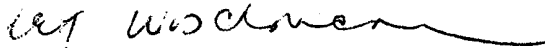
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Thank you for considering these comments.

Sincerely,



Lesley Wischmann
712 South Second Street
Laramie, WY 82070
lesleywisch@earthlink.net
May 25, 2004

RECEIVED
BLM KEMMERER F.O.
2004 JUN - 1 AM 11:21



Rock Schuler
<rock.schuler@verizon
.net>

To: <ed_feeley@blm.gov>
cc:
Subject: Smithsfork Draft Comments

05/27/2004 01:05 PM

Ms. Mary Jo Rugwell, Field Manager
BLM Kemmerer Field Office
312 Highway 189 North
Kemmerer, Wyoming 83101-9711

Dear Ms Rugwell

Please accept these comments on the Smithsfork Draft Allotment Mangement Plan (AMP).

... The AMP continues the 30 percent reduction in livestock numbers implemented in 2001 and makes provision for additional reductions if needed. It is imperative that these reductions be maintained and provided for in the AMP. The history of the Smithsfork Allotment shows it has been grazed in excess of carrying capacity since the original adjudication in 1966; unless the allotment is grazed at carrying capacity sensitive riparian resources will continue to be degraded regardless of any other livestock management efforts.

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Thank you for considering these comments

Sincerely

The Rev. Dr. Rock H Schuler
405 N Broad St
Lansdale, PA 19446
215-361-6020



Andrew Carson
<andrewcarson@earthlink.net>

To: ed_feeley@blm.gov
cc:
Subject: Smith Fork Allotment Grazing

05/28/2004 06:50 AM

Ms. Mary Jo Rugwell, Field Manager
BLM Kemmerer Field Office
312 Highway 189 North
Kemmerer, Wyoming 83101-9711

Good morning;

We write today with serious concerns over grazing provisions in the above-mentioned area. Your 30% reduction in livestock numbers is a step in the right direction, particularly for sensitive sites such as Raymond Canyon. As well, having a person such as a "range boss" in place will discourage habitat degradation and despoilment.

Then, there are issues where things are not going so well. Among them

are the following: the pastures that livestock are supposed to graze during certain periods of time are as much a line on a map as clearly defined areas. In the past, when livestock were supposed to be grazing a particular pasture, allowing the other three pastures to rest, livestock repeatedly trespassed into the "closed" pastures, leading to continued degradation. The AMP does not provide clear assurance that enough riders will be required to prevent this sort of unauthorized use, which would make improvement of range conditions problematic at best. The AMP, like most BLM livestock grazing plans, proposes additional fence building, spring developments, and water pipelines as a means to manage overgrazing. These activities are almost invariably harmful to wildlife-fences create barriers to big game movements and can be lethal to sage grouse; water developments introduce heavy livestock use into areas that had been secure for wildlife. The AMP is complex and will take careful monitoring to ensure that it is implemented as planned, yet it is not clear that BLM has sufficient personnel to enforce the AMP.

While cows can put up with serious habitat destruction, the rest of us cannot. Please take steps to rectify the situation in the Smith Fork Allotment for present and future visitors to this part of our wonderful West.

Thanks for giving us a chance to express our thinking. And, have a great Memorial Day Weekend.

Sincerely,

Andrew and Nancy Carson
Box 709 800 N. Wenzel Ln
Wilson, WY 83014

oh
6-1

Office of State Lands and Investments
Funding Wyoming Public Education

122 West 25th Street
Cheyenne, WY 82002
Phone: (307) 777-7331
Fax: (307) 777-5400
slfmail@state.wy.us



Dave Freudenthal
Governor

Lynne Boomgaarden
Director

May 28, 2004

Ms. Mary Jo Rugwell, Field Manager
Bureau of Land Management
Kemmerer Field Office
312 Highway 189 North
Kemmerer, Wyoming 83101-9711

**Re: AF-21005, OSLI Project 2004-010
Smithsfork Draft Allotment Management Plan
Field Manager's Proposed Decision dated May 12, 2004**

Dear Ms. Rugwell:

The staff of the Office of State Lands and Investments has reviewed the captioned DAMP and Proposed Decision and offers the following comments relative to the proposed actions insofar as they pertain to the mission of this office.

The actions proposed will not likely result in significant adverse affects to 11,585 acres of state trust lands/resources that lie within the boundary of this allotment, provided vegetative use level objectives can be attained in the immediate future.

We acknowledge that these objectives are subject to many variables, be it forage availability, animal behavior, vegetation treatments, etc. Under the circumstances, we can also appreciate the proposed intensive management, move criteria and monitoring in riparian areas. We support additional water developments in an effort to mitigate stress in and around riparian areas. We are concerned, however, that in the event established vegetative use level objectives are not met and the livestock use, as measured in AUMS, is reduced by 10% per year until vegetative objectives are met, the allotment management plan could result in increased pressure and impact on state resources. Consequently, we intend to monitor any grazing pressure changes on state resources and the relative condition of state land forage and riparian areas. We look forward to working with the BLM to implement management practices that make sense across the landscape.

We appreciate this opportunity to comment. If we may be of further assistance, please do not hesitate to contact this office.

Sincerely,

A handwritten signature in cursive script that reads "Lynne Boomgaarden".
Lynne Boomgaarden
Director

sc

cc: Governor's Planning Office

BLM RECEIVED
KEMMERER F.O.
2004 JUN -1 PM 12:55

June 1, 2004

Ms. Mary Jo Rugwell, Field Manager
BLM Kemmerer Field Office
312 Highway 189 North
Kemmerer, Wyoming 83101-9711

Dear Ms Rugwell,

Please accept these comments on the Smithsfork Draft Allotment Management Plan (AMP).

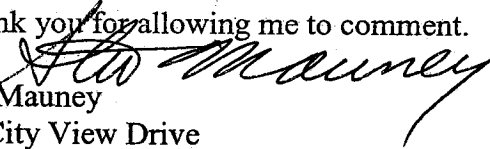
The AMP continues the 30 percent reduction in livestock numbers. Based on the past failure of this reduction to improve riparian habitat, a continued 30 percent reduction is useless! It should be reduced 90 percent or greater in order to let the riparian areas improve over many years. You know as do I that this allotment has been grazed in excess of carrying capacity since the original adjudication in 1966.

Despite the closure of Raymond Canyon, the BLM has found animals in the canyon beyond the required take out time and this has resulted in severe overgrazing. The draft AMP calls for riders (permittees or their agents) to trail cattle to authorized pastures. This also has not worked in the past and will not work in the future in the draft AMP. Why continue with something that has not worked?

An independent employee hired to monitor compliance and paid for by the permittees is the answer. Also, increased fencing, water developments, and water pipelines should not receive emphasis in the final AMP.

If the BLM really wants to protect and improve riparian habitat in the Smithsfork/Raymond Canyon area, then they should completely shut the area off to livestock grazing until independent biologists confirm that the riparian areas have recovered to proper functioning condition.

Thank you for allowing me to comment.


Stu Mauney
66 City View Drive
Evanston, Wyoming 82930

RECEIVED
BLM KEMMERER F.O.
2004 JUN -2 AM 8:16

Budd-Falen Law Offices, L.L.C.

Karen Budd-Falen¹
Franklin J. Falen¹
Marc R. Stimpert^{1,2}
Richard W. Walden^{1,2,4}
Brandon L. Jensen^{1,3}
Lloyd D. Rickenbach^{1,5}
Karen L. Spinola¹
Michael P. Van Tassell⁵

300 East 18th Street
Post Office Box 346
Cheyenne, Wyoming 82003-0346
Telephone 307/632-5105
Telefax 307/637-3891
E-Mail main@buddfalen.com
Website www.buddfalen.com

¹admitted in Wyoming
²admitted in Oklahoma
³admitted in Colorado
⁴admitted in California
⁵admitted in Utah

June 2, 2004

VIA FEDERAL EXPRESS

Mary Jo Rugwell, Field Manager
Kemmerer Field Office
Bureau of Land Management
United States Department of the Interior
312 Highway 189 North
Kemmerer, Wyoming 83101-9711

RECEIVED
BLM KEMMERER O.
2004 JUN -3 PM 1:36

Re: Draft Allotment Management Plan for the Smithsfork Allotment

Dear Ms. Rugwell:

On May 5, 2004, the Kemmerer Field Office of the Bureau of Land Management ("BLM") issued a draft Allotment Management Plan ("AMP") for the Smithsfork Allotment. The Allotment Management Plan was developed as directed in the Final Decision issued on the Smithsfork Allotment on August 2, 2001. The BLM provided the permittees and the interested public thirty days to submit comments on the draft AMP.

As you are well aware, our law firm represents each of the permittee/members of the Smithsfork Grazing Association, and Mr. Hal Cornia as well. It has come to our attention that most of the permittees have been extremely busy during the month of May and unable to adequately review and comment on the draft AMP.

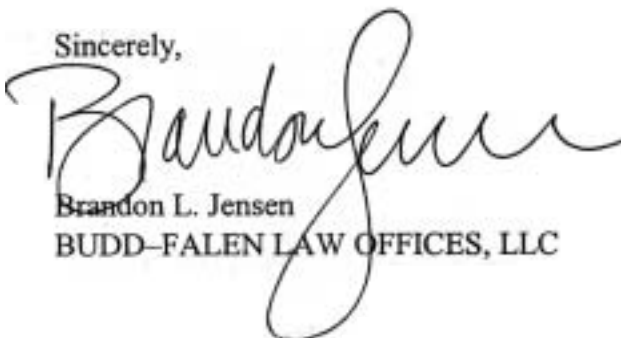
Accordingly, on behalf of the permittees of the Smithsfork Allotment, the purpose of this letter is to request an additional thirty days, until July 5, 2004, in which to submit comments pertaining to the draft AMP for the Smithsfork Allotment. The BLM should not be prejudiced in any manner due to this delay. Please contact me immediately if the BLM is unable to accept our request so that we may discuss an alternative deadline.

June 2, 2004

Page 2

Please do not hesitate to contact me with any questions or concerns you may have. Thank you for your cooperation in this matter and I look forward to hearing from you shortly.

Sincerely,

A handwritten signature in dark ink, appearing to read "Brandon L. Jensen". The signature is fluid and cursive, with a large initial "B".

Brandon L. Jensen
BUDD-FALEN LAW OFFICES, LLC

xc: Fred Roberts
Hal Cornia
Jennifer Rigg
Ed Feeley, via facsimile: (307) 828-4539

BLH

2004 JUN -3 PM 1:36

**WYOMING OUTDOOR COUNCIL • GREATER
YELLOWSTONE COALITION • SIERRA CLUB
• BIODIVERSITY CONSERVATION
ALLIANCE**

June 3, 2004

Mr. Ed Feeley
BLM Kemmerer Field Office
312 Highway 189 North
Kemmerer, WY 83101

2004 JUN -4 AM 8:47
B H ET
E C E R F U

Re: Smithsfork *draft* Allotment Management Plan

Dear Mr. Feeley

Please accept these comments on the draft Allotment Management Plan (AMP) for the Smithsfork Allotment released by the Bureau of Land Management (BLM) on May 5, 2004.

THE LAW APPLICABLE TO ALLOTMENT MANAGEMENT PLANS.

We believe it is important to bear in mind the legal requirements for an AMP as the Smithsfork Allotment AMP is finalized. The Federal Land Policy and Management Act (FLPMA) requires that "Allotment management plans shall be tailored to the specific range condition of the area to be covered by such plan, and shall be reviewed on a periodic basis to determine whether they have been effective in improving the range condition of the lands involved" 43 U.S.C. § 1752(d) (emphasis added). Thus, the reason for development of the Smithsfork Allotment AMP is to improve the range condition of the Smithsfork Allotment. This overarching goal should guide all facets of development of the AMP. The requirement to focus solely on improvement of range condition is reemphasized in the Public Rangeland Improvement Act (PRIA), which provides that the goal of public land range management is to improve range condition. 43 U.S.C. §§ 1901(b)(2), 1903(b).

The term "range condition" is defined in PRIA, and this definition is applicable to AMPs. 43 U.S.C. §§ 1752(d), 1902(d). "Range condition" as defined in PRIA means the "quality of the land" as reflected by the ability of specific areas to support the productivity sought by BLM. See id. § 1902(d). On the Smithsfork Allotment, BLM has recognized many times that the quality of the land on the allotment is severely diminished due to the inability of riparian areas, and wildlife dependent on riparian conditions (i.e., the Bonneville cutthroat trout), to be as productive as called for by various BLM

objectives and plans. Thus, when the Smithsfork AMP seeks to improve “range condition,” as it must, what this really means is that the AMP must provide for improved riparian habitat conditions. All other objectives are at best secondary with respect to the Smithsfork Allotment AMP.

It is also important to note that FLMPA defines what an AMP is, and part of that definition requires that BLM must “prescribe” the conduct of grazing in an AMP. 43 U.S.C. § 1702(k). See also 43 C.F.R. § 4120.2(a)(2). An AMP cannot leave important decision-making relative to grazing practices to permittees or others, rather BLM must carefully lay out what grazing practices will and will not be allowed, when they will be allowed, where they will be allowed, etc. Thus, on the Smithsfork Allotment, BLM must carefully prescribe the grazing practices that will be instituted to improve the condition of riparian areas on the allotment.

There are at least two other legal requirements that must be borne in mind as the Smithsfork Allotment AMP is finalized. First, the Taylor Grazing Act authorizes and requires the BLM to “do any and all things” necessary to preserve public land, and also to do work that will “amply” protect and rehabilitate the lands. 43 U.S.C. § 315a. Thus, the charter law authorizing BLM to regulate livestock grazing also recognized the need for BLM to do whatever was necessary to improve the condition of the public rangeland. Second, FLPMA requires that the BLM “shall . . . take any action necessary to prevent unnecessary or undue degradation of the [public] lands.” 43 U.S.C. § 1732(b) (emphasis added). The courts have recently affirmed that both unnecessary degradation and undue degradation must be prevented under this standard. Mineral Policy Center v. Norton, 292 F.Supp.2d 30, 41-43 (D.D.C. 2003).

Finally, an AMP must make explicit that it will be incorporated into and be part of the grazing permits it relates to. 43 U.S.C. § 1752(d); 43 C.F.R. § 4120.2(d). The draft AMP fails to make the connection between the grazing permits on the Smithsfork Allotment and the AMP explicit. This oversight should be corrected in the final AMP.

**BLM MUST ENSURE THE AMP PRESCRIBES MEANS TO ENSURE THAT
GRAZING DOES NOT EXCEED THE LIVESTOCK CARRYING CAPACITY
OF THE SMITHSFORK ALLOTMENT. THE RANGE CONDITION OF
RIPARIAN AREAS MUST BE IMPROVED BUT UPLAND RANGE
CONDITIONS SHOULD NOT BE THE FOCUS OF THE AMP.**

BLM is required to ensure that authorized livestock grazing use does not exceed the livestock carrying capacity of the Smithsfork Allotment. 43 C.F.R. § 4130.3-1. Yet BLM has recognized for a number of years that the carrying capacity on the Smithsfork Allotment was greatly exceeded and that this was a fundamental reason underlying the unacceptable condition of riparian habitats on the allotment. For example, in 1999 in the Smithsfork Cooperative Management Plan the BLM recognized the carrying capacity of the allotment was only 9,290 cattle animal unit months (AUMs) (11,349 sheep AUMs) yet approximately 11,500 AUMs of grazing use were being authorized. The Draft

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Smithsfork Allotment Evaluation issued in 2000 also recognized the authorized use was exceeding the carrying capacity to the same degree. Ensuring that livestock carrying capacity is not exceeded is a core, underlying need the Smithsfork Allotment AMP must meet.

On August 2, 2001 BLM issued a final decision that, among other things, reduced the “current active preference” on the allotment from 14,010 AUMs to 9,831 AUMs (6226 cattle and 3605 sheep), a level still in excess of the carrying capacity recognized by BLM in the above-referenced documents.¹ Furthermore, it is important to note that the 2001 decision is not explicitly made part of the draft Smithsfork AMP. Adjusting the authorized grazing level to meet the recognized carrying capacity of the allotment is not explicitly part of the prescription for grazing management on the allotment, a prescription that BLM is required to provide. This oversight should be corrected in the final AMP.

The livestock carrying capacity of the allotment should be stated in the AMP and provision (prescription) should be made, as part of the “Grazing Management” section of the AMP, that this carrying capacity will not be exceeded by the authorized use. While livestock carrying capacity can vary from year to year, 43 C.F.R. § 4100.0-5, where as here there is a long-recognized and well documented problem with severe overuse of riparian areas, BLM should err on the side of improving the condition of those areas to meet its FLPMA- and PRIA-imposed duty to improve range condition through the AMP. Thus, improved forage conditions in a single or few years should not be the basis for immediate, significant changes in the authorized used because the improved forage conditions in those years may well allow the improvement in range condition BLM is obligated to pursue to actually occur, or to occur at a faster rate. See 43 C.F.R. § 4100.0-2 (an objective of BLM’s grazing regulations is to “accelerate restoration and improvement of public rangelands to properly functioning conditions”) (emphasis added).

It is imperative that the 30% reduction imposed by the 2001 final decision be maintained until the carrying capacity of the allotment is such that it would allow increased stocking. The 30% reduction in authorized use should be a key component of the AMP, yet it is not made part of it in an explicit fashion. Improved management of livestock will not allow an improvement in range (riparian) condition if the livestock carrying capacity of the allotment is exceeded.² Furthermore, since several permittees

¹ Actually, it is somewhat uncertain as to whether these changes in livestock numbers authorized to graze the Smithsfork Allotment have actually been made. On page 17 of the draft AMP it is stated that “Approximately 11,500 AUMs of Active Use of the 14,000 AUMs of Active Preference were licensed over the last five years” On that same page it is stated that the 30% reduction in the capacity of the allotment had been made in the August 2001 final decision. This apparent discrepancy needs to be reconciled.

² Holecheck, J. L., et al. 1998. Grazing Intensity: Critique and Approach. *Rangelands* 20(5): 15-18 (showing that stocking rates have greater influence on forage production than rotational grazing schemes). Holecheck, J.L., et al. 1999(a). Grazing Studies: What We’ve Learned. *Rangelands* 21(2): 12-16 (“Rotation grazing systems have been widely recommended by various government agencies concerned with range management. However research shows stocking rate reductions from heavy to conservative, have much higher probability of increasing grazing capacity, reducing risk, increasing financial returns, and reducing erosion.”). Holecheck, J.L., et al. 1999(b). Stocking Desert Rangelands: What We’ve Learned. *Rangelands* 21(6): 8-12 (“Rather than focusing so much on rotation grazing systems and trying to

have challenged the 2001 decision before the Interior Board of Land Appeals (IBLA), there is a possibility the 2001 decision will be overturned. BLM needs to ensure the final AMP contains alternatives to deal with that possibility, perhaps provisions for meeting livestock carrying capacity pursuant to 43 C.F.R. §§ 4130.3-1, 4110.3, 4110.3-2, 4110.3-3(b) and 4130.3-2(f), in accordance with any adverse decision by the IBLA. See also 43 CFR 4120.2(a)(1) (requiring terms and conditions in an AMP pursuant to these regulations).³

The provisions in the draft AMP for reductions in livestock use based on future monitoring are important for ensuring livestock carrying capacity is not exceeded. They should be maintained in the final AMP and clarified so that all can fully understand the basis and terms of any future reductions in livestock grazing. In this regard, potential reductions in livestock grazing should be tied to the timeline for achieving desired plant community (DPC) objectives specified on page 12 of the draft AMP. That is, the percentage reductions specified on pages 25-27 of the draft AMP should be based on what BLM estimates is needed to achieve a DPC in the specified timeframe on page 12.

As indicated above, in determining livestock carrying capacity and managing livestock grazing such that it does not exceed livestock carrying capacity it is crucial to keep in mind what explicit measures of improved range condition must be the focus of the AMP. These are the conditions the AMP must focus on improving, and not other things. Page 11 and Appendix C of the draft AMP confirm once again that the vast majority of streams in the Smithsfork Allotment are not in properly functioning condition. Appendix B shows poor stream bank stability predominates in most riparian areas. BLM has long recognized that the Smithsfork Allotment fails to meet two of Wyoming's standards and guidelines, one related to the ability of riparian vegetation to tolerate disturbance, and the other related to the ability of riparian areas to sustain native species and provide habitat for imperiled species (in this case the Bonneville cutthroat trout). Thus, it is clear that the poor range conditions in the Smithsfork relate to riparian habitat conditions. Consequently, it is improvement in riparian habitat conditions that the AMP must focus on.

In that regard it would be useful for BLM to focus on Coal Creek, Lower Stoner Creek, and Huff Creek, areas that have somewhat better riparian conditions. What is different about these areas? BLM has indicated in the past that there is generally better livestock management in these areas, with little in the way of specifics. But perhaps BLM should try to specifically replicate (prescribe) the livestock management conditions in those drainages for the Smithsfork Allotment as a whole. That said, these drainages are not models in all cases; there are still substantial areas functioning at risk, for example.

maximize forage harvest efficiency, we believe public rangeland managers and ranchers should place greater emphasis on keeping animal numbers in balance with forage supplies.”)

³ These regulations also require the AMP to include terms and conditions pursuant to 43 C.F.R. § 4180. The fundamentals of rangeland health and Wyoming's standards and guidelines must be explicitly made part of the AMP and binding on the permittees so as to ensure improvement in range condition.

The failure to meet standards and guidelines requires the BLM to take action that will result in “significant” progress towards meeting the standards and guidelines. 43 C.F.R. § 4180.2(c). That significant progress must be achieved toward meeting these standards implies a timeline for when the improvement will have occurred. See 43 C.F.R. §4100.2 (acceleration of improvement of range conditions is BLM’s goal). Thus, BLM should prescribe in the AMP a timeframe by which the standards and guidelines that are currently unmet will be met, and the means by which that timeframe will be met, with alternative course of action specified if they are not met in the timeframe specified.

While the needed improvement of the condition of riparian habitat conditions is very well documented and thus clearly should be the focus of the AMP, there is little or no basis for the AMP to seek to give the same level of emphasis to upland vegetative conditions. BLM must go beyond the “professional opinion” of the technical review team “that a high percentage of these upland shrub communities are in late successional stage, and are dominated by decadent and dying plants” before there is any basis for prescribing the fences, water developments, pipelines, or “vegetative manipulation projects” suggested and/or planned in the draft AMP.⁴ There is simply little or no evidence the range condition of the uplands demands these actions, in stark contrast to the riparian habitats, most of which are well-documented to be severely degraded. Thus, the AMP, as required by FLPMA, must focus on the range conditions needing improving, not changing range conditions where this is little or no evidence of a problem with range condition. BLM has limited resources, so it should focus those resources on areas where problems are clearest—that is, riparian areas. Furthermore, riparian habitats are probably the habitats most susceptible to improvement due to the availability of water.⁵

At a minimum, the fences, water developments, pipelines, and vegetation projects mentioned in the draft AMP must comply with the National Environmental Policy Act (NEPA) before they are pursued. Likewise, the purpose and need for any such projects—that is, claims regarding the condition of upland vegetation—must also be reviewed pursuant to NEPA.

The original assessment of compliance with the standards and guidelines dated May 5, 2000 provides no indication of any significant problems with upland range conditions. With respect to Standard 1, the report notes “Uplands have the vegetative cover and litter appropriate for the site on most of the allotment that provide for water infiltration and minimal erosion.” With respect to upland plant communities (Standard 3) the report states “The plant communities on the allotment are appropriate for the ecological sites . . .” with limited exceptions. Given this, there is no basis for the AMP

⁴ To the extent the Technical Review Team contains members who are not federal employees, compliance with the Federal Advisory Committee Act must be ensured.

⁵ Because of the availability of water, and the well documented ability to transplant willows into riparian areas with success, BLM should strongly consider prescribing willow planting as a management requirement in the final AMP. Obviously, livestock grazing would have to be carefully managed to make this successful, but given the fact that restoration of willow communities is one of the primary goals of the AMP, and the realistic possibility of establishing them, BLM should prescribe measures in the AMP for the planting of willows. For example, successful planting (transplanting) of willows by a permittee could be required before any extension of the grazing season is permitted (see Draft AMP at 28)

to focus on changing upland vegetative conditions given the fact the riparian habitats are in need of much more focused management. Furthermore, given the fact the upland vegetative communities deviate only modestly from DPC, if BLM were to focus efforts on modifying these communities when the riparian communities are in such clear need of scarce management resources it would tend to belie claims in the draft AMP that the projects “are not based on the need for cattle or wildlife feed. Although these are added benefits . . . they are just added benefits for addressing a vegetation issue.” Draft AMP at 32. The AMP must, by law, focus on improving range conditions, and on the Smithsfork Allotment that means focusing on improving riparian habitat conditions, not upland conditions.

In addition to the above concerns regarding carrying capacity and range condition, the following are related issues the final AMP should address:

Much of the allotment—including its eastern portions—is mountainous, yet BLM characterizes, incorrectly in our view, these eastern portions of the allotment as “rolling.” Draft AMP at 3. The significance of this is that the carrying capacity of the allotment must be determined based on whether much of it is even useable by livestock. Much of the allotment is not going to be used by cattle due to the steep slopes. Similarly, over time the Smithsfork allotment has increasingly come to be grazed by cattle and less by sheep. Cattle, of course, are less able or inclined to make use of the steep slopes that characterize the entire allotment than sheep are. The slopes and classes of livestock need be explicitly, and realistically, considered to properly determine the livestock carrying capacity of the allotment, and the AMP should make provision for adjusting the livestock carrying capacity based on these physical realities.

- On page 20 of the draft AMP, Exchange of Use (“E/U”) AUMs are presented but it is unclear whether they relate to federal lands within the Smithsfork Allotment. These AUMs need to be explained, and carrying capacity determinations should consider them in a realistic way. Likewise, it appears the 30% reduction in AUMs imposed by the 2001 final decision was based on inclusion of the 2348 AUMs “reserved” for wildlife. See Draft AMP at 15-17. That seems like an inappropriate basis to determine “livestock carrying capacity,” the carrying capacity BLM is legally obligated to meet. 43 C.F.R. § 4100.0-5 (emphasis added).
- The Bonneville cutthroat trout is clearly a significant reason for the development of this AMP. Yet the Bonneville cutthroat trout receives no specific mention as to management actions that will or will not be taken pursuant to the AMP. That should be changed so that livestock management actions and needs taken to benefit the trout are clearly identified. It also is worth noting that the Bonneville cutthroat trout receives protections pursuant to BLM’s special status species manual, BLM Manual Section 6840, and BLM should tie its obligations under that manual section to the actions it takes pursuant to the AMP. For example, the protections afforded Endangered Species Act candidate species are the

“minimum level of protection for BLM sensitive species” and BLM must ensure that its management activities affecting the habitat of candidate species “are carried out in a manner consistent with the objectives for managing those species.” BLM Manual §§ 6840.06(C) and (E).

- On page 12 of the draft AMP reference is made to the DPCs having no more than 5% of the stream banks “devoid of vegetation (eroding or aggrading)” as an objective for the Smithsfork Allotment. Since these DPCs are objectives, the AMP should include provisions for the measure of this condition and corrective actions to be taken when it is detected. Appendix B makes it clear that these kinds of degraded conditions have already been widely detected in the allotment, so again the AMP should make provision to monitor these conditions and to take actions to correct conditions that do meet the objective. While page 36 of the draft AMP makes reference to “other useful data” that includes monitoring of stream stability, nothing more specific is said. Yet the stability of the stream banks in the Smithsfork Allotment is clearly an important issue—the heavily eroded and deeply cut riparian areas in the allotment may be the most obvious manifestation of the poor riparian conditions in the allotment. The AMP should expressly require monitoring and make provision for actions to be taken if stream bank stability standards are not met or if DPC objectives are not met.
- On page 12 of the draft AMP it is stated site specific objectives will be developed for riparian community types “at each monitoring site.” Yet on page 13 with respect to upland vegetation goals BLM states that they are “set at the landscape, rather than site-specific level.” The reasons why this different approach is appropriate need to be explained. In particular, if it will take significant amounts of time to determine site specific objectives for riparian communities BLM must justify that time investment given the clearly documented and severely degraded riparian habitat conditions that form the basis of the need for this AMP, and BLM’s responsibility to expedite recovery of these areas.
- On pages 19 and 22 of the draft AMP statements are made regarding moves of livestock occurring when stubble height reaches 3 inches in the spring and second use pastures. In the third and fourth pastures moves are to occur when a 5 inch stubble height is reached. It appears that it is assumed that sedges that are grazed to 3 inches will regrow to 5 inches, the nominal minimum acceptable stubble height, by the end of the growing season when measurements are made. BLM needs to verify the validity of this assumption, and if it is not justified—that is, regrowth to 5 inches is not occurring in the spring and second pastures by the time measurements are taken—the AMP should make provision to modify this standard, perhaps changing it to 5 inches as in the third and fourth pastures, or moves may need to be made earlier.
- Ear tagging is a vital part of grazing the Smithsfork Allotment at carrying capacity and this provision should be maintained in the final AMP. However, the draft AMP uses language on page 19 that is somewhat confusing as to providing

ear tags “on request” to replace lost tags. On May 12, 2004 the BLM issued a proposed decision that would require ear tagging on the Smithsfork Allotment. On pages 1-2 of that proposed decision BLM provided a more detailed explanation of when ear tag replacements would be provided, and we suggest that that language be used in the AMP as well.

THE INTEGRITY OF THE PASTURES, AND MOVE DATES AND OFF DATES, MUST BE ENSURED.

The draft AMP is built on an assumption that the four pastures included in the 4 pasture deferred rotation system will have integrity—that cattle will not wander from one pasture to another whenever they desire. Yet history shows the integrity of these four pastures is far from certain; significant amounts of trespass and/or wandering will probably occur from the open pasture to “closed” pastures. The draft AMP acknowledges the historical porosity of the pastures on pages 16-17. A failure in the integrity of the pastures means that the guidelines (draft AMP at page 8) and prescriptions (draft AMP pages 17-25) will not be met. Given this, the integrity of these pastures must be bolstered to the maximum extent possible. And if it becomes apparent the “four pasture deferred rotation system” is in fact a single-pasture system or a nearly-single-pasture system, the AMP must have built in mechanisms for making changes to livestock management and/or numbers (See last section of these comments on page 13, dealing with the need for alternative plans and self-enforcing mechanisms).

Herding, which is a major component of the AMP for achieving rotations and movements on and off of the allotment, has not worked well in the past (draft AMP page 16). The failure of past herding efforts makes several things apparent, including:

- More than four riders need to be required. Four riders have not been enough to control the livestock in the past—that is, four riders have not ensured the integrity of the pastures. Draft AMP at page 17. BLM is required to “prescribe” the conduct of livestock operations, yet the draft AMP only makes a vague statement that “The Association will develop a range-riding plan that assures the availability of the necessary additional riding help . . . to effectively accomplish pasture moves, fall gather, and any unforeseen contingencies.” Draft AMP at 18 (emphasis added). This is simply too vague a requirement to rise to the level of being a prescription. The minimum number of riders—which based on past history must exceed four—is not even specified, and critical decisions are left wholly to the permittees. It has long been recognized by the courts that BLM cannot turn over critical livestock management decisions—in this case the linchpin of the AMP—wholly to the permittees. See Natural Resources Defense Council v. Hodel, 618 F.Supp. 848 (E.D. Calif. 1985). The AMP should also clearly specify provisions to avoid “Complications with the riders” mentioned on page 17 of the draft AMP, and specify actions that will be taken if such “complications” arise.

- The authority of the “Association Range Boss” to make decisions on behalf of all permittees must be clearly required and specified in the AMP. On page 17 of the draft AMP it is stated the range boss will conduct daily range operations “as a representative of all permittees.” The AMP must require that this authority be expressed in writing and written documentation of this authority on behalf of all permittees should be made a condition in the AMP of grazing the allotment. It is imperative that the range boss’s authority be clearly specified in a legally binding way so that the extreme problems BLM has documented in the past where this “common” allotment is grazed through the numerous, often uncoordinated, decisions of individual permittees is not repeated. Similarly, the authority of the Smithsfork Grazing Association to bind and make decisions on behalf of all permittees must be clearly established in writing in a legally binding way. The draft AMP is built on the assumption that such authority exists, but it must be ensured.
- The range boss and riders should be required to have training sufficient to ensure they know the criteria for making moves. See draft AMP at page 22-23 (specifying move criteria). In the past BLM has adopted “red flag” criteria that essentially were intended to provide advance warning of the need to move livestock. Such an early warning system should be considered as an element of this AMP, and if it is adopted, the range boss and riders should have sufficient training to recognize these conditions.
- This AMP contains a number of details regarding when moves of livestock need to be made, where the livestock need to be moved to (which pasture), areas that cannot be grazed, proper trailing procedures, etc., etc. Given this complexity it is essential that BLM have sufficient resources to monitor compliance with the AMP. This monitoring of compliance needs to occur not only relative to vegetative conditions at the end of the grazing season (draft AMP at pages 34-35), but also with respect to the grazing management plan specified in the AMP (draft AMP pages 17-25) during the grazing season. To accomplish this, we recommend that BLM make provision to ensure that it has the personnel it will need to accomplish monitoring of grazing management, as well as of vegetative conditions. It is unlikely BLM will have regular staff sufficient to meet this monitoring need, therefore, BLM should consider hiring temporary employees to meet this need, or perhaps even more likely hiring interns to meet this need.⁶ If BLM determines that it cannot provide personnel to conduct regular monitoring of compliance with the grazing management plan (pages 17-25 of the AMP) during the grazing season, it should require the range boss to provide written certification that compliance with the provisions on pages 17 to 25 is in fact occurring and provisions for actions that will be taken if these provisions are not met or documentation of compliance is not timely provided. And of course BLM

⁶ An internship would likely be a highly desirable position for students at the University of Wyoming or Utah State University, and given the proximity of Utah State University to the allotment, it might even be viable for classes to participate in the monitoring.

should at a minimum “spot check” that actual compliance is occurring as certified.

- On page 19 of the draft AMP provisions are made for salt placement. The final AMP should also make provisions requiring that salt be picked up after a pasture is left, with appropriate verification it is in fact picked up. A major reason for salting is to distribute cattle away from riparian areas into areas that are not being grazed heavily. Yet salt should not be left in place once the cattle leave a pasture because it might serve an inducement for cattle to return to a nominally closed pasture. As mentioned above, taking all practical steps to ensure the integrity of the pastures, and the effectiveness of herding, is crucial to the success of the four pasture system. Thus, salt should not be left out as an inducement to cause livestock to wander into closed areas.
- On page 23 of the draft AMP the rotation schedule among the four pastures is specified. BLM must ensure that when cattle are moved from one pasture to another the cattle are not being moved back through a pasture that has already been grazed. It appears to us that the Little Muddy pasture may need to always be the 2nd or 3rd pasture grazed to avoid this problem. If it is impossible to avoid trailing back through a “closed” pasture, adjustments should be made as needed. For example, the final AMP may need to “deduct” any grazing that is occurring when cattle are trailed through a “closed” pasture from the time the pasture can be grazed initially. Adjustment of the 3 inch stubble height standard mentioned above may also need to be made. Likewise, the final AMP needs to provide enforceable measures to ensure sheep regrazing does not occur. See draft AMP at pages 19 and 24. Areas open to grazing by sheep should be defined before the grazing year starts so that any unauthorized regrazing can be detected and remedial measures taken.

In the above we have focused on ways to make the pasture system prescribed in the draft AMP as effective as possible—for it to have integrity—without the necessity of building additional fences. We believe BLM should require this approach to the maximum extent possible in the final AMP. Fences are fraught with problems for wildlife, not to mention recreationists. Fences inhibit big game movements and can be lethal to sage grouse. They also are expensive to build and their maintenance requires significant future investments that the BLM and/or the permittees may not be able to meet. Thus, they should be avoided to the maximum extent possible.

The environmental consequences of additional fences need to be openly and publicly analyzed and discussed pursuant to NEPA, and the cumulative effects of any proposed new fences need to be considered in conjunction with existing fences. All existing fences should be examined in a NEPA process, and those found to cause unnecessary degradation or undue degradation of the public lands should be removed. All necessary fences should be built to the “wildlife friendly” specifications of the Wyoming Game and Fish Department, with a solid top rail no higher than 40 inches off

the ground and only smooth wire bottom strands no lower than 16 inches above ground. The AMP should require this.

FLEXIBILITY IN IMPLEMENTATION OF THE AMP CANNOT BE ALLOWED TO DEFEAT THE NEED TO IMPROVE RANGE CONDITION ON THE SMITHSFORK ALLOTMENT—FLEXIBILITY CANNOT BE ALLOWED TO “SWALLOW THE RULE.”

On page 28 of the draft AMP, note is made of the variability of rangeland ecosystems and plant communities. But while the amount of forage, etc. may vary year to year, it is not infinitely variable. BLM must ensure that any “flexibility” does not allow livestock carrying capacity to be exceeded. That there is an occasional good year in terms of forage production should not automatically be used as justification to increase livestock numbers, rather good years (i.e., years with high precipitation or a more favorable timing of precipitation) should be viewed first as an opportunity to improve range condition and accelerate restoration, which BLM has a legal obligation to do. That is the reason this AMP is being adopted. Increases in livestock numbers should not occur until it is documented that there has been a permanent (multi-year) increase in the livestock carrying capacity of the allotment as a result of improved range condition on the allotment.

On page 28 of the draft AMP it is stated that an alternative is to use the South pasture and the Coal/Dipper pasture together for two months. No rationale is provided to support the use of this “alternative.” If this alternative were to be used, other aspects of grazing management likely also need to be modified—the 3” stubble height criterion likely needs to be modified, for example.

The discussion of flexibility on page 28 of the draft AMP makes it unclear as to how this “flexibility” will be implemented. It is implied such decisions will be part of annual operating plans and other mechanisms with little meaningful or real opportunity for public involvement. Changes in implementation of the AMP (“flexibility”) cannot be arrived at through decisions just between BLM and the permittees. The final AMP must make provision for meaningful public involvement in these decisions and specify the process that will be used prior to the implementation of any “flexibility” features.⁷

There should be no modification of the “off” date without other steps being taken to ensure that livestock grazing remains within the livestock carrying capacity—fewer livestock, later start dates, modification of the 3” stubble height, etc need to be considered if livestock are allowed to remain on the allotment longer. This is necessary to ensure livestock carrying capacity of the allotment is not exceeded and that the purpose of the AMP—improvement of riparian habitat condition—is met. And again, a good year in terms of forage production should not be viewed first as a basis to increase livestock

⁷ Among other things, meaningful public involvement should not require interested publics to travel to the Kemmerer area regularly due to its distance from many interested parties.

grazing, but rather as an opportunity to accelerate and make permanent the restoration this allotment so sorely needs.

Finally, it is important to note that “flexibility” in an AMP is to be “determined and granted on the basis of the operator’s demonstrated stewardship.” 43 C.F.R § 4120.2(a)(3). The final AMP needs to make explicit that this will be required before any “flexibility” feature will be permitted. In this regard, it is important to note that there is strong preliminary evidence of widespread unauthorized grazing use (trespass) on the Smithsfork Allotment, necessitating the use of BLM approved ear tags. See Notice of Field Managers Proposed Decision, May 12, 2004; draft AMP at page 19.

RAYMOND CANYON

BLM has long recognized the importance of Raymond Canyon to the Bonneville cutthroat trout. The Wyoming Department of Game and Fish has reiterated this fact, and has also repeatedly stressed the importance of Raymond Canyon for big game species. BLM has also documented time and again the severely degraded conditions in this portion of the allotment and the failure of “trailing” through this canyon to in fact be “trailing.” Rather, long-term, and often unauthorized, use has been common, if not the norm, to the extreme detriment of this important ecological resource.

Given this history, trailing of livestock through Raymond Canyon should be prohibited, and the closure of this area to livestock grazing should be maintained. Rather than allowing permittees to trail livestock through Raymond Canyon to other portions of the allotment (or beyond), the permittees should be required to truck their livestock onto open portions of the allotment. At a minimum, non-permittees should not be allowed to trail livestock through Raymond Canyon. See draft AMP at page 18. While any increase in costs due to trucking would be regrettable,⁸ full closure of this portion of the allotment is necessary to meet BLM’s obligation to do anything that is needed to prevent unnecessary or undue degradation of the public lands, and to meet its obligations under BLM’s special status species manual. Given the repeated failure of “trailing” to in fact be transitory, it has clearly become necessary to eliminate trailing through Raymond Canyon to prevent unnecessary or undue degradation of the public lands.

If grazing were to be restored in Raymond Canyon due to improved range conditions (draft AMP at page 18), there also needs to be provision made in the AMP to restore reductions in livestock grazing if the improved conditions are not maintained. The level of livestock grazing needs to be subject to both upward and downward adjustment based on the condition of the range.

⁸ If increased costs are claimed, such needs to be documented.

**THE FINAL AMP NEEDS TO PROVIDE ALTERNATIVE PRESCRIPTIONS
FOR THE CONDUCT OF LIVESTOCK GRAZING IF THE SPECIFIED PLAN
IS NOT WORKING AS PLANNED, AND PROVIDE "SELF-EXECUTING"
MEANS OF ENFORCING THE AMP.**

With the exception of the "flexibility" provisions, the draft AMP provides no alternative prescriptions for the conduct of livestock grazing if the provisions on pages 17-25 of the draft AMP are not fully implemented, or if they do not achieve the results anticipated. There is no "plan B" if "plan A" fails to work out as planned and that should be corrected in the final AMP.

Any number of things may not work out as planned with respect to this AMP. For example, the integrity of the pastures is far from certain, and BLM or the permittees may not have the funding to construct and maintain fences over any reasonable timeframe. What happens in that case? The final AMP should make provision for these kinds of eventualities, which are far from speculative or unlikely given the well documented history on this allotment. For example, given the problems mentioned above relative to fences, the AMP might make provision for a defined (prescribed) increase in the number of herders if the initial number proves inadequate.

Similarly, in constructing the final AMP, we believe BLM should give emphasis to prescribing the conduct of grazing in a way that is "self-executing" or "self-enforcing." BLM does not have the personnel or budget to thoroughly monitor compliance with this AMP, yet the condition of the Smithsfork Allotment demands significant oversight of grazing that can be achieved in realistic ways, considering available budgets and personnel. For example, if a substantial number of cattle (BLM should define this) are found on a pasture significantly (again, BLM should define this) before or after the pasture is open or closed, the AMP could require an automatic increase in the number of herders required so as to ensure the AMP is implemented as planned. Or, as another example, if trailing through Raymond Canyon is proving to in fact not be "trailing" and significant resource degradation continues to occur, the final AMP should make automatic provision for the requirement to truck livestock and to discontinue "trailing."

Thank you for considering these comments, and we look forward to seeing the final AMP before the agreed to date of February 28, 2005, as well as supporting NEPA documentation.

Sincerely,

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Bruce Pendery,
Staff Attorney, Wyoming Outdoor Council

And on Behalf of:



Kirk Koepsel,
Sierra Club

Erik Molvar,
Biodiversity Conservation Alliance

Lloyd Dorsey,
Greater Yellowstone Coalition



"Michael A. Smith"
<Pearl@uwyo.edu>

06/16/2004 11:19 AM

To: <ed_feeley@blm.gov>
cc:
Subject: Smith's fork AMP

I have only one suggestion for this AMP that I would like you to seriously consider. Although the general thrust of the AMP is that AUM's of use are a function of the time to reach the annual use standard and reductions in the authorized use are a consequence of not meeting the standard, if there is an incentive to do better management there might be a chance for a change of attitude of current or future permittees toward implementing animal management strategies that would be beneficial. Therefore I recommend that there be an explicitly stated opportunity in the AMP for the permittees to regain AUM's that may be lost in the short term due to failing to reach the annual use standards.

Thanks for your consideration

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06/06/2004 09:01 PM

To: ed_feeley@blm.gov
cc: bryan.wyberg@honeywell.com
Subject: Comments: Smithsfork Draft Allotment Mangement Plan

June 5, 2004

Ms. Mary Jo Rugwell, Field Manager
BLM Kemmerer Field Office
312 Highway 189 North
Kemmerer, Wyoming 83101-9711

Dear Ms Rugwell

Please accept these comments on the Smithsfork Draft Allotment Mangement Plan (AMP).

I am not an expert on grazing issues, but I do read of the problems facing our public grazing lands. These issues are getting even worse due to the effects of the severe drought affecting Wyoming and the entire West. So I believe it is even more important to make wise management decisions so that the resources of our public lands both serve the needs of today's ranchers, and also to ensure that our lands are passed on to future generations in a condition which enables them to enjoy the same benefits that we do today. In short, I advocate that the BLM ensure the protection of the resources of these public lands, even if that will require making difficult decisions today. We must consider the longterm effects of today's grazing management decisions.

The comments I make regarding the Smithsfork Draft Allotment Mangement Plan (AMP) seek to support the provisions of the plan that I feel are reasonable and beneficial in the longterm (items 1 & 2). But I do ask the BLM to consider modifications to improve the effects of the proposal per the specific comments below (3 & 4).

1. It is good and proper that the AMP continues the 30 percent reduction in livestock numbers implemented in 2001 and makes provision for additional reductions if needed. It is imperative that these reductions be maintained and provided for in the AMP. The history of the Smithsfork Allotment shows it has been grazed in excess of carrying capacity since the original adjudication in 1966; unless the allotment is grazed at carrying capacity sensitive riparian resources will continue to be degraded regardless of any other livestock management efforts.

2. The benficial effects of the closure of Raymond Canyon to livestock grazing must be maintained in the final management decision. BLM's has repeatedly documented the importance of this watershed to the Bonneville cutthroat trout as well as the severe overgrazing occurring in this watershed. BLM should prohibit trailing of livestock through this canyon. Rather, livestock should be required to trucked into other portions of the allotment they are authorized to graze. In the past BLM has documented that "trailing" of livestock has not occurred, rather animals were found to remain in the canyon for extended periods, leading to severe overgrazing.

3. An improvement is needed in the way the draft AMP calls for riders to ensure cattle are moved as planned, and that they be herded as needed to keep them in authorized pastures. Yet the number of riders needed to accomplish this is not specified. The final AMP should specify the number of riders that will be required to ensure the requirements of the AMP are met. In addition, the final AMP should ensure that BLM has sufficient personnel to monitor compliance with the AMP by making provision for a BLM intern or temporary employee to monitor compliance.

4. I am opposed to any focus on increased fencing, water developments, and water pipelines, and do not feel these should receive emphasis in the final AMP. These developments have too many negative consequences for wildlife (movements are hindered, direct mortality can occur to sage grouse, and livestock become concentrated in previously secure wildlife habitat). To the extent these activities are pursued, the final AMP should make clear they will only be constructed if there is full compliance with the National Environmental Policy Act, and that the cumulative impacts of these related developments will be considered together, not separately.

Thank you for considering these comments

Sincerely,
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